

# Manitoba Ombudsman

## REPORT UNDER

### *THE OMBUDSMAN ACT*

#### CASE 2014-0070

#### THE WINNIPEG FIRE PARAMEDIC SERVICE

#### REPORT ISSUED ON MARCH 6, 2015

### CASE SUMMARY

The complainant contacted our office regarding an invoice she received from the Winnipeg Fire Paramedic Service (WFPS). The invoice was for costs WFPS had incurred by hiring a private company (“the contractor”) to secure her fire-damaged garage. The complainant objected to being billed for this work, as she did not believe that the contractor had carried out work on her property. Nor did she believe that WFPS adequately responded to her concerns about the invoice.

After our office contacted WFPS, the WFPS deputy chief of Professional Development visited the complainant’s property to inspect the garage. He found that the work described on the contractor’s invoice had not been done. WFPS decided to refund the complainant the full invoiced amount and advised the contractor that WFPS required digital photos of the contractor’s work securing buildings for WFPS.

WFPS has also improved how it notifies an absent building owner when WFPS has a contractor secure a fire-damaged building. Lastly, WFPS has included additional information on its website regarding the WFPS complaints process.

Based on our investigation of this complaint, Manitoba Ombudsman concludes that WFPS has given reasonable consideration to this matter and has implemented administrative improvements that should help to prevent future complaints of this nature. Manitoba Ombudsman has also determined that there are no grounds upon which to make any recommendations on the complainant’s behalf.

## **OMBUDSMAN JURISDICTION AND ROLE**

Manitoba Ombudsman is an independent office of the Legislative Assembly of Manitoba, reporting to the assembly through the Office of the Speaker. The responsibilities and authority of the ombudsman are set out in *The Ombudsman Act*, *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act*, and *The Public Interest Disclosure (Whistleblower Protection) Act*.

Under *The Ombudsman Act*, Manitoba Ombudsman investigates administrative actions and decisions made by government departments and agencies, and municipalities, and their officers and employees. Investigations may be undertaken on the basis of a written complaint from a member of the public, or upon the ombudsman's own initiative.

Ombudsman investigations typically assess actions taken or decisions made against a benchmark established by government. Sometimes that benchmark is provincial legislation or a municipal by-law. On other occasions, it is written policy or established procedures implemented to give effect to legislative purpose. In cases concerning an impact on individual rights or benefits, we also examine the fairness of the action or decision. A complaint can raise questions of procedural fairness, substantive fairness or relational fairness. Procedural fairness relates to how decisions are reached; the steps followed before, during and after decisions are made. Substantive fairness relates to the fairness of the decision itself and relational fairness relates to how people are treated during the decision making process.

While our office has a mandate to investigate complaints, the investigative process we follow is non-adversarial. We carefully and independently consider the information provided by the complainant, the decision maker, and any witnesses we determine to be relevant to the case. Administrative investigations can involve an analysis of statute or by-law provisions, document reviews, interviews and site visits.

The goal of administrative investigations is to determine the validity of complaints and to identify areas requiring improvement. If a complaint is supported by a finding of maladministration, the ombudsman may make recommendations pursuant to section 36 of *The Ombudsman Act*.

## **THE COMPLAINT**

The complainant contacted our office regarding an invoice she received from WFPS. The invoice was for costs WFPS had incurred by hiring a contractor to secure her fire-damaged garage. The complainant objected to being billed for this work, as she did not believe that the contractor had carried out work on her property. Nor did she believe that WFPS adequately responded to her concerns about the invoice.

## KEY ISSUES

1. Does WFPS provide reasonable notice to a property owner that they might receive an invoice for the costs of securing their fire-damaged building?
2. Does WFPS provide sufficient information to the public regarding its complaints process?

## BACKGROUND INFORMATION

Subsection 186(1) of *The City of Winnipeg Charter* indicates that when an emergency arises that affects property, “the city may take whatever actions and measures are necessary to meet the emergency and to eliminate or reduce its effects.” Sections 180 and 181 of the charter indicate that in an emergency, a designated employee may enter land or a building and carry out the action required by the charter or by-law without giving any notice to the owner or occupant of the land or building. The designated employee may do so without a warrant.

## POSITION OF THE COMPLAINANT

The complainant advises that on September 11, 2013, WFPS entered her garage to ensure that a fire on her neighbour’s property had not spread to her garage.

At some point after the fire, she found a WFPS incident card in her door that included a telephone number. When she called the telephone number on the card and asked why WFPS had attended her property, reportedly she was told that WFPS had entered her garage because it had been scorched by a fire at the neighbouring property. She advises that she provided her contact information at the time for follow-up purposes.

The complainant indicates that on November 25, 2013, WFPS sent her a copy of the contractor’s invoice and asked her to cover the cost. She states this was the first she learned of WFPS having hired a contractor to secure her property. The invoice was for one hour of travel to her property in Winnipeg, one hour of work at the property, a “call out off hours” charge, and 7 “screws (nails).” However, the complainant advises that when she inspected her garage after the fire, she found no evidence of any work done to her property. She states that neither the overhead or side doors of the garage were secured with any screws.

When the complainant received the invoice in late November 2013, she indicated that she called the telephone number on the WFPS invoice to express her concerns. She does not recall the name of the staff person with whom she spoke, but states that she was told WFPS would send a representative to her property to investigate. When she received no further information from WFPS, she advises that she left numerous voicemail messages with the WFPS billing department in December 2013. The complainant indicates that she did not receive a response and subsequently called Winnipeg 311 in January 2014. Winnipeg 311 reportedly directed her call to WFPS where she left voicemail messages for the assistant chief of Fire Operations.

She advises that on January 27, 2014, she attended the WFPS headquarters and spoke with the assistant chief of Fire Operations, in order to advance her complaint. Two days later, the assistant chief called her and said that he had conducted an investigation and determined that the contractor's bill was valid. Apparently, when the complainant asked the assistant chief to explain his decision, he said the contractor confirmed it had been called out to the property. The complainant states that she asked if there was any proof that the work had been done, and the assistant chief told her that the contractor did not take photos of these types of small jobs. The complainant states that she asked the assistant chief to provide her the results of his inquiry in writing and alleges that he declined to do so.

The complainant decided to pay the bill, as her understanding was that if she refused to do so, she would be charged an administration fee and that the City of Winnipeg would collect payment via her property taxes.

### **POSITION OF THE WINNIPEG FIRE PARAMEDIC SERVICE**

WFPS indicates that section 186 of *The City of Winnipeg Charter* permits the City of Winnipeg to take whatever actions and measures are necessary in an emergency. As a fire-damaged building constitutes an emergency, WFPS considers the boarding up of a fire-damaged building to be one of these necessary measures. As such, WFPS explained that it is not required to notify an absent property owner before sending a contractor to board up a fire-damaged building.

WFPS indicates that while the complainant attended WFPS headquarters on January 27, 2014 and met with the assistant chief of fire operations, WFPS has no record of any phone calls made to either WFPS or 311. WFPS states that as the complainant went straight to the assistant chief, WFPS did not follow its complaints process in responding to her complaint. WFPS provided our office a copy of its process for dealing with complaints about invoices of this nature. The process indicates that in order for WFPS to conduct a formal review of a complaint, the complainant must submit the complaint in writing to the administrative section of WFPS. WFPS indicates that it reviewed its complaints process and found that there have been few issues; and where there have been issues, it seems human error has been the culprit. WFPS notes that as with all WFPS processes, final appeal may always be made in writing to the WFPS chief.

After our office contacted WFPS, the deputy chief of Professional Development visited the complainant's property to inspect the garage. He found that the work described on the contractor's invoice had not been done. WFPS decided to refund the complainant the full invoiced amount.

WFPS states that the contractor usually takes digital photos of the work it carries out for WFPS and sends WFPS the photos along with an invoice. When WFPS discussed this file with the contractor, it informed WFPS that it did not take photos in this case because its practice was to not take photos of small assignments. WFPS determined that the contractor was not fulfilling the requirements of its contract with WFPS, and explained to the contractor that WFPS always required digital photos of work the contractor completed for WFPS.

## SCOPE OF THE INVESTIGATION

Our investigation of this complaint included the following:

- Discussions with the complainant and review of documentation she provided;
- Discussions with the WFPS deputy chief of Professional Development;
- Review of the WFPS website and the WFPS “After the Fire” pamphlet;
- Review of *The City of Winnipeg Charter*; and
- Review of the City of Winnipeg Bid Opportunity No. 141-2012: “Provision of board-up and or securing buildings following fires for Fire Paramedic Services.”

## ANALYSIS OF ISSUES AND EVIDENCE

### **1. Does WFPS provide reasonable notice to a property owner that they might receive an invoice for the costs of securing their fire-damaged building?**

WFPS states that it abides by the principle that a fire-damaged building must be secured as it was prior to the fire. This can include boarding up a door that WFPS has forced open or boarding up several windows. If a property owner is present when there is a fire, WFPS indicates that the fire investigator will explain to the property owner that there is a need to secure the building and, if the property owner is unable to secure the building themselves, the fire investigator sends the contractor to board-up the building.

The complainant indicates that while the fire damage to her garage occurred on September 11, 2013, she first learned about the bill regarding her property when she received it by mail in late November 2013.

WFPS indicates that the card it had left in the complainant’s door after the incident was a business card for the WFPS fire investigator who had attended the property. WFPS indicates that its practice has been to also leave a brochure for property owners who experience fire damage to their property that gives advice about what to do after a fire. The brochure does not mention that WFPS may require that a private company board-up or secure a fire-damaged building at the property owner’s expense.

WFPS also states that normally a property owner in this situation will connect with a WFPS investigator who will explain that a bill is coming and that the property owner can deal with the bill with their insurer or their neighbour’s insurer, as the case may be. WFPS indicates that in this case, the investigator and the complainant may not have connected because there was a lot of staff turnover in the fire investigation department at the time.

WFPS notes that usually a property owner is home at the time of a fire and makes an insurance claim regarding the fire damage, so the circumstances in this case were unusual. Nevertheless, WFPS has decided to improve the administrative process by which it advises an absent property owner that it has arranged the securing of the property and that a bill is forthcoming. WFPS further advises that in addition to the information brochure it already leaves at fire-damaged properties, it will leave a notice on the door handle of the building that states the following:

*To the Property Owner:*

*Your property has sustained damage due to a fire and an on call contractor was contacted to safely secure the property.*

*You may receive a bill for service from the contractor.*

*If the fire originated on this property you are advised to contact your insurer regarding any such invoice.*

*If the fire originated from the adjoining property you are encouraged to contact your neighbour's insurer regarding reimbursement.*

*If you have any further questions please contact the Winnipeg Fire Paramedic Service Administration Office at:*

*Phone: 204-986-6380*

*Fax: 204-986-7920*

*Mail: Winnipeg Fire Paramedic Service  
185 King St. 2nd Floor, R3B 1J1*

Our office believes this is a positive administrative improvement that enhances how WFPS notifies the absent owner of a fire-damaged property that WFPS sent a contractor to secure the building. The information reasonably notifies the property owner that he or she might be billed for this service.

We note that WFPS also advises that it has created a form that will be completed by the WFPS dispatch operator when WFPS sends a contractor to secure or board-up a building.

## **2. Does WFPS provide sufficient information to the public regarding its complaints process?**

WFPS provided our office a copy of the WFPS complaints procedure that was in place during the period the complainant contacted WFPS regarding her bill. The document begins with the following guidance:

*Complaints are **not** to be taken verbally over the phone. In order for WFPS to conduct a formal review, the complaint must be submitted in writing by the complainant/patient to the Administrative Section at 2nd floor-185 King Street, Winnipeg, MB R3B 1J1. This allows no misinterpretation of the events that may have occurred.*

[Emphasis original]

The process indicates that the administrative assistant in operations will review all complaints and, in addition to several other procedural requirements, enter each complaint into an information form, which is attached to the complaint. The complaint, with related documents attached, is then forwarded to the assistant chief of Emergency Medical Services Operations or the assistant chief of Fire Operations, depending on the complaint, for their review.

WFPS indicates that it did not follow its complaints procedure when it first dealt with the complainant's concern. It did not require her to submit her complaint in writing and WFPS did not complete a complaint information form. WFPS indicates that the only documentation relevant to this complaint that it was able to locate were the WFPS and contractor invoices that it had mailed to the complainant.

It should be noted that in this case, the complainant maintains that WFPS never asked her to submit a written complaint or explained the complaints procedure to her.

Our office suggested to WFPS that it consider providing property owners with information about its procedure for reviewing bill-related complaints.

WFPS decided to provide information about its complaints procedure on its website, along with a link to a printable complaint form. The information now on the WFPS website is as follows:

### ***WFPS Complaint Process***

*The Winnipeg Fire Paramedic Service (WFPS) strives to provide superior service to the citizens we serve in all aspects of our organization and takes all complaints and/or concerns very seriously. Each complaint received by the WFPS will be investigated thoroughly and promptly.*

*In order for the WFPS to conduct an investigation, details must be submitted in writing to avoid misinterpretation of the events while collecting the information.*

### ***Following is the process to register a complaint or concern:***

- 1. Download and print the Complaint/Concern form.*
- 2. Complete all fields on the form. Please be sure to include the incident date and location as this information is required for WFPS to identify the incident.*
- 3. Mail completed form to:*

**Winnipeg Fire Paramedic Service  
Complaints Department  
2-185 King Street  
Winnipeg, MB R3B 1J1**

***Once your complaint/concern has been received it will be handled as follows:***

- 1. A complaint file will be opened and the complaint will be entered into a tracking system.*
- 2. An acknowledgement letter will be sent to the complainant within five (5) business days of receipt of the complaint.*
- 3. A thorough investigation will be conducted.*
- 4. Upon completion of the investigation a letter outlining the findings of the investigation and final disposition will be sent to the complainant.*

[Emphasis original]

Our office believes this is a positive administrative improvement that enhances the WFPS complaints process. With this information available online, WFPS is clearly informing the public how to complain to WFPS and doing so in a reasonable manner. WFPS has also developed an online complaint form to assist the public.

## **CONCLUSION**

WFPS decided to refund the complainant the full invoiced amount and explain to the contractor that WFPS always requires digital photos of the contractor's work securing buildings under its contract with WFPS.

WFPS has also improved how it notifies an absent building owner when WFPS has a contractor secure a fire-damaged building. Lastly, WFPS has included additional information on its website regarding the WFPS complaints process.

Based on our investigation of this complaint, Manitoba Ombudsman concludes that WFPS has given reasonable consideration to this matter and has implemented administrative improvements that should help to prevent future complaints of this nature. Manitoba Ombudsman has also determined that there are no grounds upon which to make any recommendations on the complainant's behalf.

## **MANITOBA OMBUDSMAN**